

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

D'MONTERRIO GIBSON

PLAINTIFF

V.

CIVIL ACTION NO.: 3:23-cv-54-DPJ-FKB

**FEDERAL EXPRESS CORPORATION, CITY OF
BROOKHAVEN, MISSISSIPPI, CHIEF KENNY
COLLINS, IN HIS INDIVIDUAL AND OFFICIAL
CAPACITY, BRANDON CASE, AND GREGORY CASE**

DEFENDANTS

**PLAINTIFF'S REPLY IN OPPOSITION TO
DEFENDANT FEDERAL EXPRESS CORPORATION'S RESPONSE IN OPPOSITION
TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT**

COMES NOW D'Monterrio Gibson ("Plaintiff") by and through his counsel of record, and files this *Reply in Opposition to Defendant Federal Express Corporation's Response in Opposition to Plaintiff's Motion for Leave to Amend Complaint*. Plaintiff moves this Honorable Court to grant Plaintiff's *Motion for Leave to Amend Complaint* and as grounds, therefore, would state as follows:

REPLY

1. This case arises due to Defendant Federal Express Corporation's ("Defendant FedEx") and others' violation of Plaintiff's state and federal rights.
2. On January 24, 2022, Plaintiff, an African American male, was acting within the scope of his employment with Defendant FedEx when he was civilly assaulted and battered by Brandon Case ("Defendant Brandon") and Gregory Case ("Defendant Gregory"), two Caucasian males. Defendants Case terrorized, shot towards, and chased Plaintiff out of the Junior Trail neighborhood located in Brookhaven, Mississippi.

3. Defendant FedEx sent Plaintiff back to work on the same dangerous route the following day intentionally discriminating against Plaintiff because of his race, creating a hostile work environment, and intentionally inflicting emotional distress.
4. On January 20, 2023, Plaintiff filed suit against Defendant FedEx and others asserting (1) 42 U.S.C. Section 1981 - Intentional Racial Discrimination; (2) civil assault and battery; (3) negligent/intentional infliction of emotional distress; (4) general/gross negligence; and (5) civil obstruction of justice.
5. After further investigations regarding this matter, Plaintiff determined that Plaintiff's complaint required amendments to add pertinent facts, amend facts that are asserted in the complaint, and add and/or remove causes of action. Therefore, on April 19, 2023, Plaintiff filed his *Motion for Leave to Amend Complaint*.
6. On April 28, 2023, Defendant FedEx filed a response arbitrarily opposing Plaintiff's motion.
7. Federal Rule of Civil Procedure 15(a) governs the amendment of pleadings before trial. Rule 15(a) allows a party to amend its pleadings "only with the other party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2). Moreover, the Rule urges that the Court "should freely give leave when justice so requires." *Id.* In taking this liberal approach, the Rule "reject[s] the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." *Conley v. Gibson*, 355 U.S. 41, 48 (1957).
8. Fundamentally, Defendant FedEx simply reasserts the arguments made in its *Motion to Dismiss*. As Defendant FedEx would suffer no prejudice if the motion was granted; and

Plaintiff reasonably seeks to ensure he receives justice and compensation for all actions by Defendant FedEx that caused Plaintiff's injuries, Plaintiff's *Motion for Leave to Amend Complaint* should be granted.

WHEREFORE, PREMISES CONSIDERED Plaintiff prays that this Honorable Court will grant Plaintiff's *Motion for Leave to Amend Complaint*. Plaintiff also prays for all other general relief this Court deems to be fair and just.

Respectfully submitted, this the 10th day of May 2023.

D'MONTERRIO GIBSON

/s/ Carlos Moore
CARLOS MOORE, MSB #100685

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing pleading was transmitted via ECF to all counsel of record.

This the 10th day of May 2023.

/s/ Carlos Moore
Carlos Moore, MSB #100685